

ESTTA Tracking number: **ESTTA493688**

Filing date: **09/11/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91200832
Party	Plaintiff Briggs & Stratton Corporation
Correspondence Address	ROBERT N PHILLIPS REED SMITH LLP 101 SECOND STREET SAN FRANCISCO, CA 94105 UNITED STATES ipdocket-chi@reedsmith.com, nborders@reedsmith.com, robphillips@reedsmith.com, ddaugherty@whdlaw.com
Submission	Opposition/Response to Motion
Filer's Name	Robert N. Phillips
Filer's e-mail	robphillips@reedsmith.com
Signature	/Robert N. Phillips/
Date	09/11/2012
Attachments	Briggs & Stratton - Declaration of Norm Mackensen.pdf (3 pages)(940735 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BRIGGS & STRATTON CORPORATION
and KOHLER CO.,

Opposers,

v.

HONDA GIKEN KOGYO KABUSHIKI
KAISHA,

Applicant.

Opposition No. 91200832 (parent)

Opposition No. 91200146

Application Serial No. 78924545

DECLARATION OF NORM MACKENSEN

Norm Mackensen makes the following declaration pursuant to 28 U.S.C. § 1746:

1. I am IT Director – Infrastructure Delivery for Opposer Briggs & Stratton Corp. (“Briggs”) in the above-captioned action. I make this Declaration in support of Briggs’ opposition to the motion to compel production of documents filed by Honda Giken Kogyo Kabushiki Kaisha (“Honda”). The matters set forth herein are based upon my personal knowledge, except where otherwise indicated, and if called as a witness I could and would testify competently thereto.

2. Briggs has 16 different offices in the U.S., located in nine different states. Briggs has another seven offices abroad (including in Canada, Europe, Asia, and Australia), for a total of 23 offices worldwide. Of these 23 offices, 11 handle Briggs’ business related to engines.


3. Briggs has over 6,000 employees, with over 4,900 working in its engines division.

4. I am informed and believe that the development of the Briggs 550 series engine began in early 2008, and the product went to market in 2009.

5. Briggs' data file servers contain over 125 terabytes of information. These servers are located in Wisconsin, Australia, Europe, and China. Briggs also maintains email accounts for more than 2,000 employees. Briggs does not own any e-discovery software, and therefore lacks the capability to electronically search its data files for relevant documents in a targeted, cost-effective manner.

7. Searching, collecting and producing all of Briggs' electronic documents regarding the design, development, manufacture, sale, advertising and promotion of any Briggs engine would require a massive investigative effort of worldwide scope and enormous scale, with substantial legal expense and business interruption to the company. It would not only consume the time and attention of Briggs' entire server IT staff (approximately six full time employees with the necessary skills and security access to perform the tasks) for many months, it would also require Briggs to hire outside contractors with the necessary e-discovery tools, infrastructure, experience and expertise. A project of this size and scope would likely cost Briggs at least \$1,000,000 in vendor costs and attorneys' fees.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 10th day of September, 2012 in Wauwasota, Wisconsin.


Norm Mackensen

CERTIFICATE OF SERVICE

In accordance with Rule 2.105(a) of the Trademark Rules of Practice, as amended, it is hereby certified that a true copy of the foregoing DECLARATION OF NORM MACKENSEN was served on the following counsel of record for Applicant, by depositing same in the U.S. mail, first class postage prepaid, this 10th day of September, 2012:

Michael J. Bevilacqua, Esq.
Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, MA 02109-1800
Phone: (617) 526-6448
Fax: (617) 526-5000

/s/ Deborah L. Kalahale
Deborah L. Kalahale